



City of Biggs

Agenda Item Staff Report for the Regular City Council Meeting: September 11, 2012

TO: Honorable Mayor and Members of the City Council
FROM: City Administrator
SUBJECT: Utility Deposits

The Council is asked to consider the subject of the calculation and handling of utility deposits, consider clarifications and revisions to City of Biggs Municipal Code section 10.30.030 (Deposits) and related policies and forms, and give direction on if and in what manner a revision should be undertaken.

Attachments:

- a: Biggs Municipal Code section 10.30.030
- b: Utility Service Deposit form

Recommendation

Direct city staff to draft revisions (detailed below) to Biggs Municipal Code section 10.30.030, create a related policy and procedure (detailed below) regarding the calculation and handling of utility deposits, revise any related policies and forms, and bring these items back to Council in the future for Council review and consideration.

Fiscal Impact:

None recommended.

Background:

In an effort to minimize financial damage to the City of Biggs in the form of unpaid utility services the City of Biggs collects deposits from certain specified utility customers. The current practice is to collect a deposit equal to an estimated 3-month average based upon the historical billing experience of the service location.

This subject came to the forefront due to a recent review of a customer deposit refund request. The review illustrated that the Municipal Code may benefit by a review and update.

The particular recent customer deposit situation was complicated by several factors:

- 1) While the customer had paid utility service bills in a timely manner for nearly a period of 12 consecutive months, on the last day of that 12 month period the customer was delinquent on their utility account. Therefore there was uncertainty about whether or not the customer qualified for refund of their utility deposit under current city municipal code.
- 2) The deposit calculation on the current residence was lower based upon actual historical monthly costs of the current occupant rather than on the previous occupant when the original deposit amount was calculated.
- 3) Because the customer moved from one residence to another during the 12-month period, and did have prior delinquent utility payments a fair reading of the current Biggs Municipal Code section 10.30.030(2) could require a new 12-month waiting period at the new residence.

In the absence of the Interim City Administrator at the moment of the current customer episode, city staff at the customer counter decided to refund (credit to the utility customer account) \$100 to approximately account for the difference in the deposit calculation between the prior resident and the deposit calculation for the current resident.

Upon further review by the Interim City Administrator the decision was made to issue a credit of 100% of the remaining deposit to the utility user customer account. As of 09/05/2012 the customer account carried a \$106.45 CREDIT balance.

City Staff believes that there are policy areas in need of review, consideration and possible revision and clarification:

- 1) The method of calculating the deposit.

Note that the current municipal code reads "...shall not exceed three times the estimated average monthly utility service bill...". However, other than a minimum deposit, the municipal code fails to state exactly what the deposit dollar amount should be or shall be.

- 2) The minimum deposit amount for residential, commercial and industrial.

Note that the current ordinance merely states "...shall not be less than \$75.00..." and does not state a different minimum for commercial or industrial. Whereas the city practice has been a \$150 minimum deposit for commercial and industrial.

- 3) The criteria for allowing a refund of the utility deposit.
- 4) The method of refunding the deposit. EG: utility customer account credit.
- 5) Unclaimed funds. Regarding the handling of unclaimed utility deposits, there is a specific legal procedure that must be followed. The sequence and timing of which should be written into policy.

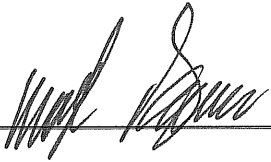
City Staff Recommendation:

- 1) Leave the current deposit calculation in place. Clarify the calculation of the utility deposit amount, when and to who a deposit requirement applies.
- 2) Clearly state in policy the minimum deposit dollar amount for residential, commercial and industrial customers. EG: Residential \$75; commercial and industrial \$150.
- 3) Leave the current deposit refund criteria in place. However, allow the City Administrator discretion to waive variances in meeting the criteria to allow a deposit to be refunded.
- 4) Clarify that in the case of an active customer that a deposit refund will be credited to the utility customer's account, as has been the City's practice. Administratively, crediting the deposit to the utility account is far simpler, easier and less time consuming than the process of setting up the customer as an accounts payable vendor, issuance of a check, etc.
- 5) Define the policy and procedure for the handling of unclaimed utility deposits.
- 6) Delete references to credit worthiness as the city has ceased the practice of reviewing credit reports.

Recommended method of accomplishment:

- A) Direct city staff to draft a revised Municipal Code section 10.30.030 that would delete sections (4) and (5), and replace section (2) with a section that refers the calculation, collection and handling of utility deposits to a City administrative policy and procedure.
- B) Direct city staff to draft a utility deposit policy and procedure and revise any forms or related policy to include recommendation items 1-6 or alternatives as Council may wish.
- C) Bring these items back to Council at a future meeting for review and consideration.

The goals of the methodology are to clarify and revise the policy points discussed above, while placing the details into an administrative policy and procedure that can be reviewed and updated by Council in the future more easily and with lower administrative overhead time costs than a municipal code amendment.

A handwritten signature in black ink, appearing to read 'Mark Sorensen', is written over a horizontal line.

Mark Sorensen, City Administrator

(f) Whether applicant is owner, tenant, or agent for the property;

(g) Applicable information to establish credit worthiness of the applicant and co-applicant;

(h) Other such information as the city may reasonably require.

(2) The application is a request for utility service and does not in itself bind the city to provide such utility service except under reasonable conditions, nor does it bind the utility customer to obtain utility service for any specific period of time.

(3) Two or more persons who join in one application or contract for utility services shall be jointly and severally liable thereunder and shall be billed by means of a single periodic bill mailed to the person designated on the application to receive the utility service bill.

(4) If a utility customer should transfer the responsibility of the utility service bill for the provision of electrical service to another person (i.e., landlord transfers such utility service bill to tenant), the city requires that such transfer be provided for in writing and the city may require further documentation for the determination of the actual and legal responsibility of the utility service bill. [Ord. 318 § 2, 1998]

10.30.030 Deposits – Establishment/re-establishment of credit.

(1) Each applicant for utility service shall establish and maintain credit to the satisfaction of the city by a cash guarantee deposit which shall be tendered to the city prior to the provision of utility services.

(2) For new applicants and for those with prior delinquent utility payments for utility services provided by the city or other utility provider, the amount of deposit to establish or re-establish credit for the specified utility customer for any combination of utility service shall not exceed three times the estimated average monthly utility service bill and shall not be less than \$75.00 based upon the credit worthiness of the applicant.

(3) The city shall not pay any interest on deposits for utility service.

(4) When the utility customer has received continuous utility service and has paid utility service bills in a timely manner for a period of 12 consecutive months, the deposit shall be returned upon the expiration of such time period, only upon the request of the utility customer.

(5) If the utility customer discontinues utility service within the first 12 months of such service, the deposit shall be returned; provided, that all outstanding utility service bills have been paid in full by the utility customer. Any deposit that is unclaimed after five years from the date that it was tendered to the city shall become the property of and be retained by the city. All deposits that have been tendered to the city as of the date of final adoption of the ordinance codified in this chapter will be reviewed and credit worthiness determined for crediting such deposits to the utility customer's account. At such time, if credit worthiness is not established, the utility customer is hereby given notice that upon establishment of credit worthiness the deposit must be claimed five years from the date of the ordinance codified in this chapter. If credit worthiness is not established, the utility customer is hereby given notice that the deposit shall become the property of and be retained by the city in order to cover administrative costs and expenses. [Ord. 318 § 3, 1998]

10.30.040 Procedures generally.

(1) Except as provided elsewhere in this chapter, the city administrator/city clerk shall ascertain the amount of each utility service and use charges applicable to each property in the city. All utility services are billed through the fifteenth of each month or as indicated on the bill. Utility service billings are mailed at the first of each month.

(2) Utility service bills shall be mailed to the property owner or persons listed as the owners on the last equalized assessment roll of the county, at the address shown on such assessment roll, or to the successor in interest of such owner, if the name and address of such successor in interest are known and proof of such is provided to the city's administrator.

(3) Failure of the city administrator/city clerk to mail any utility service bill shall not excuse the owner of any property from the obligation of paying any utility service and use charges for any property owned and/or occupied and any other serviced area.

(4) Utility service and usage charges are required for and imposed upon all property, regardless of occupancy, to the same extent as occupied property, and are billed directly to the owner of said property. Electrical service bills and responsibility for such bills can be transferred to the tenant

UTILITY SERVICE DEPOSIT:

AMOUNT RECEIVED: _____

DATE PAID: _____

Residential	3X Estimated Monthly Average - \$75.00 minimum
Commercial	3X Estimated Monthly Average - \$150.00 minimum (Deposit based on credit report)

Credit Reports: Equifax, P.O. Box 740241, Atlanta, GA 30374-0241, 1-800-685-1111.

BILLING OF SERVICES:

All service is billed to the 15th of each month or as indicated on your bill. Billings are mailed at the first of each month. **If you fail to receive your bill please contact our office immediately. You are responsible for payment of your bill even if you do not receive your bill.** Payment is due by the 10th day of each month and is delinquent if payment is not received by the 20th day of each month, (if the 20th falls on a weekend or holiday then payment is due the next business day following the 20th). All past due accounts will be charged 10% penalty, plus the maximum interest allowed by law (7% per annum) will be added to unpaid accounts on the first working day of each month.

Water, sewer and garbage service is required for all property owners. This is a basic service that is not related to actual use or occupancy. Account transfers are allowable only with a change in ownership evidenced by official documentation filed with our office.

SERVICE DISCONNECTION:

Non-payment: **Payments for service reconnection and tampering will be accepted in cash, cashier check or money order only.** If your electrical service has been turned off for non-payment of your account, a \$50.00 fee, in addition to the outstanding balance of your account, will be collected to reinstate your service. Payment must be received during regular business hours (Monday-Friday 9:00 am to 3:00 pm). For payments received Monday-Friday between 3:00 pm and 4:00 pm additional overtime labor charges may be applied. Payments and requests for service reconnection will not be processed after 4:00 pm.

COLLECTION FEES:

If Utility Customer's account has reached 90-day delinquent status City staff shall begin collection proceedings against the utility customer. An administrative fee of \$200 will be assessed to all accounts that reach collection status.

RETURN CHECK FEE: \$35.00

DEPOSIT REFUND:

When your account remains without any late or delinquent charges for twelve consecutive months, you are eligible for a deposit refund. You are required to request and sign for a deposit refund. The deposit amount will be applied directly to your account. When closing

your account, the deposit will be applied to your final balance and any refund or balance due will be mailed to the address on file.

METERS AND ADDITIONAL CHARGES:

Meters must be accessible at all times. If the meter is found to be inaccessible a fee of \$50.00 may be charged to your account. Inaccessible includes but is not limited to, locked gates/fences or buildings, animals, or overgrown landscape.

Meter tampering is prohibited. When unauthorized use of electricity is confirmed, either tenant or property owner will be assessed a penalty of \$100.00. For a second tampering offense the penalty is increased to \$200.00 and may be subject to further legal proceedings.

GARBAGE SERVICE: WASTE MANAGEMENT

Each household is allowed one 32-gallon toter, one 64-gallon recycle toter and one 96-gallon yard waste bin. Each container is assigned to the address and should not be removed. Pick up service is scheduled early Friday morning of each week; containers should be set at your curbside Thursday evening. Do not include any hazardous waste materials. Any special arrangements, including toter size upgrades, should be handled through City of Biggs.

DOG LICENSE:

Dog licenses are issued based upon your dogs' rabies vaccination expiration date. Dogs must be licensed at the age of 4 months and/or within 30 days of taking residence in the City of Biggs.

Unaltered: \$12.00 Altered: \$ 6.00

The penalty for late licensing or renewal, is charged at twice the amount of the license and is in addition to the regular license fee.

LEASH LAW:

Be aware, the City of Biggs has a leash law. No owner or keeper shall allow or permit such dog whether licensed or unlicensed, to run at large within the City of Biggs or upon any private place or premises other than those of said owner or keeper, except with the consent of the person in charge of said private place or premises unless such dog is securely restrained by a substantial leash, not to exceed six (6) feet in length and a person competent to keep such dog under effective charge and control is in charge.

By my/our signature(s) below, I/we have read and understand the above policies and charges which I/we could be charged. I/we additionally understand the above can be changed without my/our knowledge and it is my/our responsibility to remain informed:

Signature-Applicant

Date

Signature-Co Applicant

Date